
Florida policymakers have introduced legislation that would privatize a number of prisons; the reason given is a need to control correctional costs. Policies introduced in the 1980's and 1990's are responsible for the rapid growth in prison populations and costs. Reforming these policies will result in the significant savings lawmakers seek, while maintaining public safety, improving outcomes for people and communities, and avoiding the problems known to accompany private prisons.

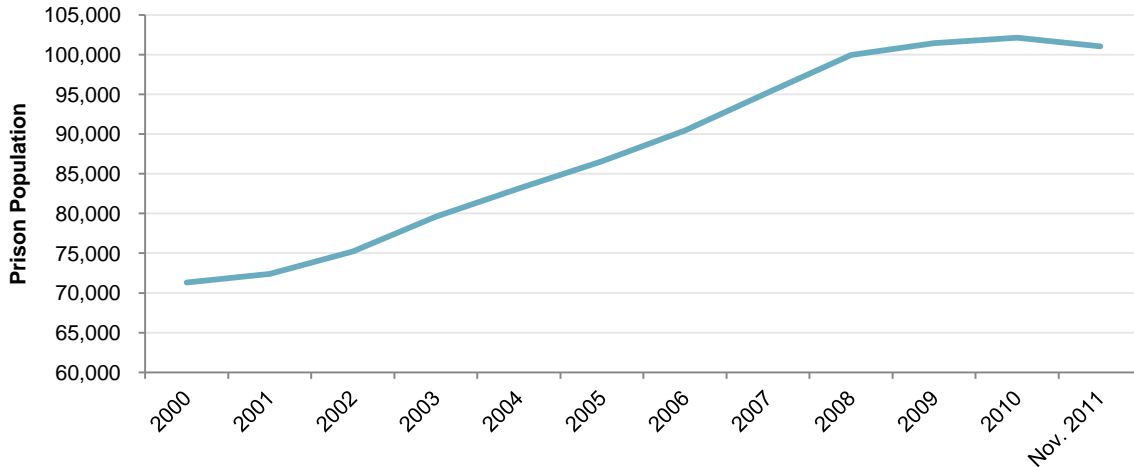
FLORIDA'S PRISON POPULATION EXPLODED DUE TO "TOUGH ON CRIME" LAWS IN THE 1980'S AND 1990'S

Like other states, Florida bought into the trend toward "tough on crime" measures in the 1980's and the 1990's. The following are some of the major changes that occurred in Florida's sentencing policies over those decades:

- 1983: Parole eliminated. Introduced in Florida in 1941, parole was a sentencing structure through which people were given an indeterminate term of years, usually including a floor and ceiling; people could be released to community supervision by parole officers prior to the maximum sentence if their parole release was approved by a parole commission. In 1983, parole was eliminated and replaced with a deterministic sentencing structure that included a system of "gaintime" where people could earn some time off against a definitive sentence.
- 1985: "Truth in Sentencing." This law requires that people must serve at least 85% of their minimum sentence regardless of gaintime or other credits.
- 1988: "Three strikes" law passed. Under this law, people with two prior felony convictions or one prior violent offense could be sentenced to longer prison terms with less gaintime and no early prison release.
- 1991: Gaintime changed from statutorily granted to discretionary. Prior to the law, a person who met the criteria was entitled to early release through gaintime; after 1991, early release through gaintime became discretionary, managed by the Parole Commission.
- 1994: With an expansion in prison bed space, basic gaintime credit of 1/3 time was eliminated
- 1995: Three strikes enhancement, more mandatory and lengthy sentences enacted. People previously convicted of three forcible felonies, or other offenses involving firearms or violence must now receive substantially longer prison terms. In addition, longer recommended sentences and mandatory sentences were proscribed for some offenses.
- 1998: Dramatic change in sentencing policy. The new law allowed for imprisonment up to the statutory maximum sentence regardless of sentencing guideline recommendations, for anyone convicted of a felony.
- 1999: More mandatory sentences. Two laws created additional mandatory prison sentences for specific offenses related to weapons, drug and violent offenses, and people with 2 prior convictions for certain violent offenses.¹

Florida's total correctional population has increased over 40 percent from 71,319 in December 2000, to 101,022 in November 2011. While the prison population dipped slightly in 2011, Florida still has one of the highest incarceration rates in the country at 556 per 100,000 residents in 2010.²

Since 2000, Florida's prison population has increased over 40 percent.



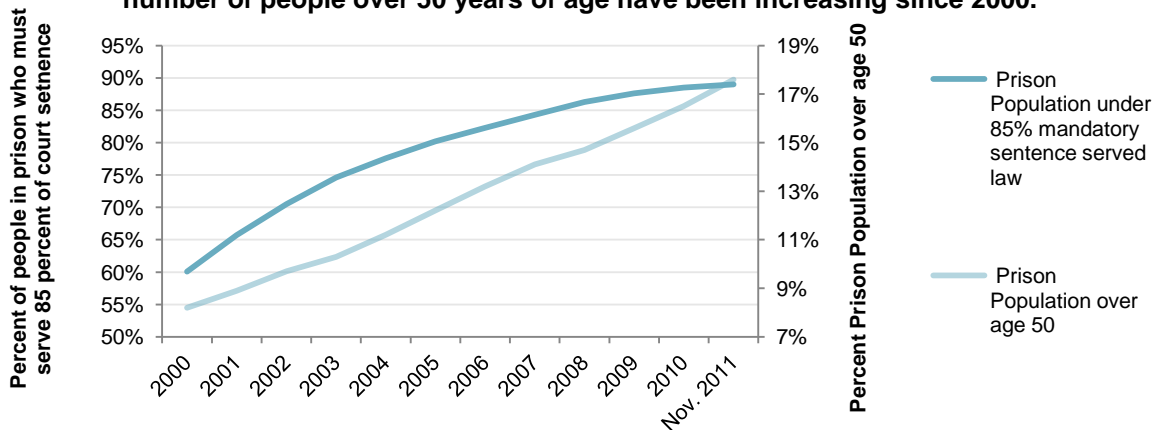
Source: Florida Department of Corrections, "Trends in Prison Admission and Population," accessed February 2012. <http://www.dc.state.fl.us/pub/pop/index.html>

During this time, the number of people in Florida's private prisons tripled, from 3,912 people in private correctional facilities in 2000, to 11,796 in 2010, while the total number of people in state private prisons in the U.S. as a whole increased only 31 percent.³

FLORIDA IS INCARCERATING MORE AND MORE OF THE PEOPLE WHO ARE LESS LIKELY TO BE A THREAT TO PUBLIC SAFETY, AT GREATER AND GREATER COSTS.

One of the most striking impacts of tougher sentencing legislation is the percentage of the total prison

The number of people sentenced to serve 85 percent of their time and the number of people over 50 years of age have been increasing since 2000.



population over age 50. In 2000, only 8.2 percent of the prison population was over age 50, but as of

Source: Florida Department of Corrections, "Trends in Prison Admission and Population," accessed February 2012. <http://www.dc.state.fl.us/pub/pop/index.html>

November 2011 that number has risen to 17.6 percent.⁴ This increase correlates closely with an increase in the number of people who are mandated to serve 85 percent of their court-imposed sentence.

Nationally, healthcare costs alone for incarcerated people ages 55-59 are double that of those who are younger, from about \$5,482 to \$11,000 respectively.⁵ And in Florida the over-50 segment of the prison population “accounts for 40.1 percent of all episodes of care and 47.9 percent of all hospital days. Such inmates have twice the number of sick calls as younger inmates, represent 35 percent of chronic clinic contacts and ambulatory surgeries, and have three times as many drug prescriptions as the average inmate.”⁶

One area that Florida has made some criminal justice system improvement is in reducing recidivism, defined as a return to prison. Three year rates of recidivism fell 1.2 percent, indicating that more people are successfully re-entering their communities from prison. As the Florida Department of Corrections itself commented:

*Note that a one percentage point drop in the recidivism rate results in approximately 400 fewer inmates being admitted over a three-year period at a cost of \$20,000 per year per inmate or a **cost avoidance of approximately \$8,000,000.***⁷ (Emphasis added)

Considering that formerly incarcerated people over fifty had the lowest rates of recidivism in the state,⁸ Florida should be finding ways to reduce the number of older people in prison and reforming policies so that fewer people stay in prison into their senior years.

OTHER STATES – INCLUDING THOSE IN THE SOUTH – HAVE MADE PROGRESS IMPROVING THEIR CRIMINAL JUSTICE SYSTEMS AND REDUCING INCARCERATION.

A number of southern states are reforming their criminal justice systems and investing in social services and programs, safely reducing prison populations and costs. JPI's 2011 report, *Due South*⁹ described some of these initiatives:

- **Mississippi** rolled back “truth-in-sentencing” laws for people convicted of nonviolent offenses and those with first-time offenses. Previously, people with these offenses were required to serve 85 percent of their sentence before becoming eligible for parole. With this new law, they are eligible after serving 25 percent of their sentence.
- **Texas** reallocated funding through the Justice Reinvestment Initiative, by investing in community-based treatment and diversion programs for people charged with nonviolent offenses. As a result, more people are diverted to treatment, reducing the number of people being sent back to prison.
- **Kentucky** made a number of changes to its criminal justice system, including reducing incarceration for some drug law violations. Also, oversight was improved to include requiring fiscal impact statements for any changes to criminal justice policy or the construction of new correctional facilities.
- In **Georgia**, which continues to use parole, instituting data driven practices has significantly reduced recidivism.

These examples show that in any political climate, it is possible to create the political will necessary to implement reforms that save money, improve public safety, and create healthier communities.

RECOMMENDATIONS

Through its tough-on-crime policies over the past three decades, Florida has created a criminal justice system that is counterproductive to protecting public safety. By enacting policies that continue to lock-up people who are low risk for re-offending, Florida is wasting taxpayer dollars that could be invested on initiatives that have been shown to have a positive public safety impact such as community based drug and mental health treatment, increased education, and job training. The following are some recommendations that policymakers should consider to help reduce the number of people in prison and ultimately the state corrections costs:

- **Abandon plans to privatize correctional facilities.** Simply shifting taxpayers' money to investments in private prisons -- corporations that have no incentive to work with the state to reduce the number of people in prison and corrections costs over the long-term -- is not a smart solution.
- **Examine sentencing policies to ensure they are working to reduce justice system costs and promote public safety.** The Florida legislature should establish a commission to examine existing sentencing policies and more cost-effective evidenced based community alternatives that could be implemented to improve public safety and reduce corrections costs. This could become the basis of bipartisan initiatives in the future.
- **Invest in front end programs and services that can keep people out of the justice system in the first place.** This includes community-based mental health and substance abuse treatment, quality educational systems, vocational training and educational and developmental programs for youth.
- **Ensure that those who are or have been in the system have the support they need to succeed in the community.** According to the Florida Department of Corrections, higher levels of tested educational ability are related to decreased rates of recidivism.¹⁰ Therefore, emphasis should be placed on educational and vocational training both in prison and for those people released from prison.

¹ Florida Department of Corrections, "Historical Summary of Sentencing and Punishment in Florida," accessed February 2012. www.dc.state.fl.us/pub/history/index.html.

² Paul Guerino, Paige Harrison and William Sabol, *Prisoners in 2010* (Washington, D.C.: Bureau of Justice Statistics, 2011). <http://bjs.gov/content/pub/pdf/p10.pdf>

³ Paul Guerino and others, *Prisoners in 2010*, 2011.

⁴ Florida Department of Corrections, "Trends in Prison Admission and Population," accessed February 2012. www.dc.state.fl.us/pub/pop/index.html

⁵ Steve Angelotti and Sara Wycoff, Michigan Senate Fiscal Agency, "Michigan's Prison Health Care: Costs in Context," November 2010, p. 16.

⁶ "Old Behind Bars." Human Rights Watch. www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf

⁷ Florida Department of Corrections, *2009 Florida Prison Recidivism Study Releases From 2001 to 2008* (Tallahassee, FL: 2010). www.dc.state.fl.us/secretary/press/2010/RecidivismStudy.pdf

⁸ Florida Department of Corrections, 2010.

⁹ Justice Policy Institute, *Due South: Looking to the South for Criminal Justice Innovations* (Washington, D.C.: 2011).

¹⁰ Florida Department of Corrections, 2010.